

CSD 1183 [08/01/11]

Name, Address, Telephone No. &amp; I.D. No.

Robert Mackey

~~Luxury Toy Club, LLC~~

1012 Prospect St Ste #300 #300

La Jolla CA 92037

Phone: 619 261-7000

Debtor In Pro Se

FILED BC  
2011 NOV -8 AM 10:59  
CLERK  
U.S. BANKRUPTCY CT.  
SD DIST. OF CALIF.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
325 West "F" Street, San Diego, California 92101-6991

In Re

~~Luxury Toy Club, LLC, Debtor~~

Robert Mackey, In Pro Se

Tax I.D. (EIN) #: ~~20-2626854~~ / S.S. #: XXX-XX-2404 Debtor.

BANKRUPTCY NO. 11-17177

Emergency NOTICE OF HEARING AND MOTION

TO: Gary E. Slater, Attorney for Richard M. Kipperman, Custodian, Case #11-059730-PB11, In re La Jolla UTC Corporation, and Receiver SDSC Case # 37-2010-00101501-CU-OR-CTL entitled GECMC 2007-C1 Prospect Street Limited Partnership v. LA JOLLA UTC CORP.

YOU ARE HEREBY NOTIFIED that on no date set, at notset .m., in Department No.       , Room        the Jacob Weinberger United States Courthouse, located at 325 West "F" Street, San Diego, California 92101-6991, there will be a hearing regarding the motion of Luxury Toy Club, LLC, Movant, for

EMERGENCY MOTION TO SET ASIDE ORDER DECLARING NON-RESIDENTIAL LEASE REJECTED, AUTHORIZING AND DIRECTING TRUSTEE TO TURNOVER POSSESSION OF PREMISES TO THE BACKRUPTCY COURT CUSTODIAN AND RELIEF FROM AUTOMATIC STAY (F.R.C.P. RULE 62)

Robert Mackey and e-Mail Networks, Inc. (Robert Mackey CEO)  
Request Relief under Rule 60 of  
administrative error to include Suite #300  
occupied by e-Mail Networks, Inc. & Robert Mackey.

Any opposition or other response to this motion must be served upon the undersigned and the original and one copy of such papers with proof of service must be filed with the Clerk of the U.S. Bankruptcy Court at 325 West "F" Street, San Diego, California 92101-6991, NOT LATER THAN FOURTEEN (14)<sup>1</sup> DAYS FROM THE DATE OF SERVICE.

DATED: November 7, 2011

Robert Mackey, in Pro Se  
[Attorney for] Moving Party

<sup>1</sup>If you were served electronically or by mail, you have three (3) additional days to take the above-stated actions as calculated by Fed. R. Bankr. P. 9006(f).

CSD 1183 (Page 2) [08/01/11]

**CERTIFICATE OF SERVICE**

I, the undersigned whose address appears below, certify:

That I am, and at all times hereinafter mentioned was, more than 18 years of age;

That on 8th day of November, 2011, I served a true copy of the within NOTICE OF MOTION AND HEARING, together with the following pleadings [describe any other papers]:

Emergency Motion and Declaration

by [describe here mode of service]:

~~personal delivery~~ Fax

on the following persons [set forth name and address of each person served] and/or as checked below:

[ ] Attorney for Debtor (if required):

Gary E. Slater  
 15373 Innovation Drive Suite #210  
 San Diego CA 92128  
 Fax: 858 675-0733

[✓]

For Chpt. 7, 11, &amp; 12 cases:

UNITED STATES TRUSTEE  
 Department of Justice  
 402 West Broadway, Suite 600  
 San Diego, CA 92101

[ ]

For ODD numbered Chapter 13 cases:

THOMAS H. BILLINGSLEA, JR., TRUSTEE  
 530 "B" Street, Suite. 1500  
 San Diego, CA 92101

[ ]

For EVEN numbered Chapter 13 cases:

DAVID L. SKELTON, TRUSTEE  
 525 "B" Street, Suite 1430  
 San Diego, CA 92101-4507

I certify under penalty of perjury that the foregoing is true and correct.

Executed on 11/8/2011  
 (Date)

Michelle Gilmore  
 (Typed Name and Signature)

PO Box 8667  
 (Address)

La Jolla, CA 92038  
 (City, State, ZIP Code)

CSD 1183

1 Dean T. Kirby, Jr. 090114  
2 Roberta S. Robinson 099035  
3 KIRBY & McGUINN, A P.C.  
4 707 Broadway, Suite 1750  
5 San Diego, California 92101  
6 Telephone: (619) 685-4000  
7 Facsimile: (619) 685-4004

8 Attorneys for Leonard J. Ackerman, Trustee

9 UNITED STATES BANKRUPTCY COURT

10 Southern District of California

11 In re

12 LUXURY TOY CLUB, LLC

13 Debtor.

Case No. 11-17177-LA7

TRUSTEE'S STATEMENT OF  
POSITION (NON-OPPOSITION) RE  
EMERGENCY MOTION OF RICHARD M.  
KIPPERMAN, CUSTODIAN AND RECEIVER  
FOR ORDER AUTHORIZING TRUSTEE TO  
TURN OVER POSSESSION TO  
BANKRUPTCY COURT CUSTODIAN AND  
FOR RELIEF FROM THE AUTOMATIC STAY

15  
16 Leonard J. Ackerman, Trustee does not oppose the Motion of Richard M. Kipperman,  
17 Custodian and Trustee, for Order Authorizing Trustee to Turn Over Possession to Bankruptcy Court  
18 Custodian and for Relief From Automatic Stay.

19 No schedules have yet been filed in this chapter 7 case, and the Meeting of Creditors has not  
20 yet taken place. The Trustee's position is based upon due diligence conducted immediately after the  
21 filing, as set forth in detail in the Declaration of Leonard J. Ackerman, Trustee submitted herewith.

22 As set forth in the Declaration, the Debtor's business appears to have been providing luxury  
23 goods and services (such as limousines, exotic vehicles, yachts and private jets) to customers. The  
24 Debtor's address set forth on the Petition is 1012 Prospect Suite, Suite 310, La Jolla California.  
25 This is an office suite, and not a location at which vehicles, etc. could be stored

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1 The Trustee is informed that Mr. Kipperman was appointed Receiver at the behest of a lender  
2 in a Superior Court action as to the property at 1012 Prospect. Mr. Kipperman was retained in office  
3 after the property owner filed a chapter 11 case in this District, In re La Jolla UTC Corp., Case No.  
4 11-bk 05973-pb11 (DI 31).

5 Immediately after the filing of the Luxury Toy Club chapter 7 petition, the Trustee was  
6 informed that the Receiver had secured the premises by changing the locks on Suite 310. The  
7 Trustee then personally visited the Suite and inspected it in the presence of Mr. Mackey, who signed  
8 the Petition on behalf of Luxury Toy Club as "operating manager."

9 During the inspection of Suite 310, the Trustee was unable to locate any assets or paper  
10 records pertaining to Luxury Toy Club. Mr. Mackey stated during the inspection that Luxury Toy  
11 Club had not been in business for the past year and that there were no assets of Luxury Toy Club on  
12 the premises. Further, as stated in the Rigg Declaration, Asset searches which include UCC filings  
13 do not indicate the existence of tangible assets of Luxury Toy Club.

14 The Lease in question does not appear to have any value to the estate, and may in any case  
15 have been terminated by the Receiver's eviction proceedings which took place pre-petition.

16 Prior to the filing of the Luxury Toy Club petition the Debtor apparently engaged in a series  
17 of actions which appear to be designed simply to frustrate the eviction of a related entity "Email  
18 Network" which is purportedly "sharing" the suite with Luxury Toy Club. These actions included  
19 the filing of apparently baseless in propria persona removal petitions by the Debtor and Email  
20 Network. The eviction cases were immediately remanded by the United States District Court for the  
21 Southern District of California (Case No. 11cv1643 JAH(BGS) and Case No. 11cv1644 AJB(POR)

22 Based on all of the above facts, it appears that the filing of this "bare bones chapter 7 petition  
23 (also by a limited liability company purportedly in propria persona) was simply the next in a series  
24 of legal maneuvers designed to frustrate an eviction.

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1           Accordingly, the Trustee has no opposition to the Emergency Motion. In order to avoid  
2 further litigation with this Debtor, the Trustee should be expressly *directed* by the Order to take the  
3 specific actions requested. The Trustee therefore requests that his attorneys be permitted to approve  
4 any order which is entered.

5 Date: October 31, 2011

KIRBY & McGUINN, A P.C.

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7 By: /s/ Dean T. Kirby, Jr.  
8       Dean T. Kirby, Jr.  
9       Attorneys for Leonard J. Ackerman, Trustee  
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7 Facsimile: (619) 685-4004

8 Attorneys for Leonard J. Ackerman, Trustee

9 UNITED STATES BANKRUPTCY COURT

10 Southern District of California

11 In re

12 LUXURY TOY CLUB, LLC

13 Debtor.

Case No. 11-17177-LA7

DECLARATION OF LEONARD J.  
ACKERMAN, TRUSTEE RE MOTION OF  
RICHARD M. KIPPERMAN, CUSTODIAN  
AND RECEIVER FOR ORDER  
AUTHORIZING TRUSTEE TO TURN OVER  
POSSESSION TO BANKRUPTCY COURT  
CUSTODIAN AND FOR RELIEF FROM THE  
AUTOMATIC STAY

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15  
16 I, Leonard J. Ackerman, declare:

17 1. I am an attorney duly admitted to practice in the State of California and before this  
18 Court. I have been appointed and am serving as interim trustee in the above-captioned case under  
19 chapter 7. I have personal knowledge of the facts stated here and could and would competently  
20 testify thereto if called as a witness.

21 2. Shortly following my appointment as trustee, I was contacted by Mr. Slater, the  
22 attorney for Richard Kipperman, Receiver. I learned the Mr. Kipperman was the receiver in  
23 possession of the property at 1012 Prospect Street, the Debtor's address as shown on the bankruptcy  
24 petition. Immediately after my appointment I contacted the property manager and requested that the  
25 locks be changed on the suite occupied by Luxury Toy Club.

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1           3.       The petition was filed without schedules. Although the Debtor is a limited liability  
 2 company (which is confirmed by online search of the records of the California Secretary of State)  
 3 the Debtor is not represented by an attorney. After receiving my appointment as Trustee, in an effort  
 4 to learn about the Debtor's business and possible assets I visited the Debtor's website. Their home  
 5 page include pictures of a sports car, a power yacht and a private jet, and states:

6                   Luxury Toy Club is a membership club for successful individuals that like to  
 7 have fun and reward themselves and others with exciting life experiences.  
 8 Members enjoy easy access to luxury cars and exotic cars, jets, planes, limos,  
 9 yachts and exclusive social events. At Luxury Toy Club, we offer the widest  
 10 selection of Exotic Luxury Cars and provide excellent service. We always add  
 new Luxury Cars to our collection, Lamborghini, Ferrari, Bentley and Rolls  
 Royce just to name a few. We are San Diego's Luxury Car Rental Provider  
 and your new favorite chauffeur service. Drive your new Luxury Car Rental  
 today.

11           4.       ~~The petition was filed on Wednesday, October 19. On the following Wednesday,~~  
 12 ~~October 26, I appeared at the property and was conducted to Suite 300. There I met with Mr.~~  
 13 ~~Mackey, who signed the petition on behalf of the Debtor as its Managing Member. Also in~~  
 14 ~~attendance was Ms. Jacqueline Rigg, a paralegal employed by Kirby & McGuinn.~~

15           5.       At that time, Mr. Mackey allowed us to inspect the property on site in Suite 300.  
 16 None of the equipment or records on the site were identifiable as the property or records of Luxury  
 17 Toy Club. Mr. Mackey then stated that Luxury Toy Club had not been in business for over a year.

18           6.       During my visit I also inspected the adjacent suite, No. 310, which I understand was  
 19 at one time occupied by Luxury Toy Club. That suite was vacant.

20           7.       Upon my appointment as Trustee I requested my attorneys to perform asset and UCC  
 21 searches to determine whether any assets of the Debtor might exist. Public records reports contain  
 22 no indication that the Debtor has any assets. For example, a UCC search reveals only a single  
 23 financing statement, by Security Business Bank, which was terminated by the filing of an  
 24 Amendment in May, 2010. A litigation search does not indicate any currently pending creditor  
 25 lawsuits against the Debtor. My attorneys have requested information as to possible car and boat  
 26 registrations from the California Department of Motor Vehicles, but it is too early to receive these  
 27 results.

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/s/ Leonard J. Ackerman, Trustee  
LEONARD J. ACKERMAN, TRUSTEE



1 Dean T. Kirby, Jr. 090114  
2 Roberta S. Robinson 099035  
3 KIRBY & McGUINN, A P.C.  
4 707 Broadway, Suite 1750  
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8 Attorneys for Leonard J. Ackerman, Trustee

9 UNITED STATES BANKRUPTCY COURT

10 Southern District of California

11 Case No. 11-17177-LA7

12 In re

13 LUXURY TOY CLUB, LLC

14 CERTIFICATE OF SERVICE

15 Debtor.

16 I, Jacquelyn Rigg, declare under penalty of perjury that the following facts are true and  
17 correct: I am a resident of the State of California and over the age of 18 years and not a party to or  
18 interested in the above-entitled matter. I am an employee of Kirby & McGuinn, A P.C., and my  
19 business address is 707 Broadway, Suite 1750, San Diego, California 92101. On October 31, 2011,  
20 I served the following document(s):

- 21 • TRUSTEE'S STATEMENT OF POSITION (NON-OPPOSITION) RE  
22 EMERGENCY MOTION OF RICHARD M. KIPPERMAN, CUSTODIAN AND  
23 RECEIVER FOR ORDER AUTHORIZING TRUSTEE TO TURN OVER  
24 POSSESSION TO BANKRUPTCY COURT CUSTODIAN AND FOR RELIEF  
25 FROM THE AUTOMATIC STAY
- 26 • DECLARATION OF LEONARD J. ACKERMAN, TRUSTEE RE MOTION OF  
27 RICHARD M. KIPPERMAN, CUSTODIAN AND RECEIVER FOR ORDER  
28 AUTHORIZING TRUSTEE TO TURN OVER POSSESSION TO BANKRUPTCY  
COURT CUSTODIAN AND FOR RELIEF FROM THE AUTOMATIC STAY

///

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1 by:

- 2 ■ MAIL: by placing a true copy(ies) thereof in a sealed envelope(s) in the outgoing  
3 mail tray located in my office for deposit in the United States mail, with  
4 postage fully prepaid, addressed as shown below. I am readily familiar with  
5 the business practice at my place of business for collection and processing of  
6 outgoing mail with the U.S. Postal Service that same day in the ordinary  
7 course of business.
- 8 □ PERSONAL SERVICE: by personally serving by hand delivery in an envelope(s)  
9 addressed as shown below:
- 10 □ OVERNIGHT DELIVERY: by enclosing, a true copy (ies) in a sealed FedEx  
11 envelope(s) addressed as shown below.
- 12 □ VIA FACSIMILE: by transmitting via facsimile to the number(s) shown below:
- 13 ■ VIA ECF FILING: by electronically mailing to the parties that are registered or  
14 otherwise entitled to receive electronic notices in this case pursuant to the  
15 Electronic Filing Procedures in this District.

16 Said document(s) was/were served on the following persons:

17 Debtor  
18 Luxury Toy Club, LLC  
19 1012 Prospect St. #310  
20 La Jolla, CA 92037

Gary E. Slater  
SLATER & TRUXLAW LLP  
15373 Innovation Drive, Suite 210  
San Diego, CA 92128

Leonard J. Ackerman - lenackerman@7trustee.net, c121@ecfcbis.com

Gary E. Slater on behalf of Interested Party Richard Kipperman -  
ges@slatertruxaw.com, grl@slatertruxaw.com; cks@slatertruxaw.com

United States Trustee - ustp.region15@usdoj.gov

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Date:

KIRBY & McGUINN, A P.C.

By: /s/ Jacquelyn Rigg  
Jacquelyn Rigg